

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 90-AO-1

CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_, 1990

AN ORDINANCE to amend the Marion County Council Ordinance No. 8-1957, as amended, the Zoning Ordinance for Marion County, Indiana, which ordinance includes the Adult Entertainment Business Zoning Ordinance, and fixing a time when the same shall take effect.

NOW, THEREFORE, BE IT ORDAINED BY  
THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS  
AND OF  
MARION COUNTY, INDIANA AS FOLLOWS:

SECTION 1. The Adult Entertainment Business Zoning Ordinance of Marion County, Indiana, adopted under Metropolitan Development Commission Docket Number 84-AO-4, pursuant to IC-36-7-4, be amended as follows:

That SECTION 4 and SECTION 5 of the Adult Entertainment Business Zoning Ordinance of Marion County, Indiana, be amended by deleting the cross-hatched language and inserting the under-scored language as follows:

Adult Entertainment Business Ordinance

anatomical areas for observation by patrons therein.

- J. "Adult Service Establishment" shall mean any building, premises, structure or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

~~K// "Agricultural/Zoning/District" shall include the A-1 and A-2 Zoning District.~~

- L/K. "Church Zoning District" shall include the SU-1 Zoning District.

- M/L. "Enlargement" shall mean an increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

- N/M. "Establishing an Adult Entertainment Business" shall mean and include any of the following:

- (a) the opening or commencement of any such business as a new business;
- (b) the conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;
- (c) the addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or

Adult Entertainment Business Ordinance

(d) the relocation of any such business.

Ø/N. "Historic Preservation Zoning District" shall include the HP-1 and HP-2 Zoning District.

P/O. "Integrated Center" shall mean a building containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveways entrances and exits, parking areas, truck loading, maintenance, sewer and water utilities, or similar common facilities and services; or one or more buildings containing individual, unrelated and separately operated uses, occupying a site under one ownership or management for lease, and utilizing one or a combination of the aforementioned common site facilities or services.

Q/P. "Nonconforming Adult Use" shall mean any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations of this ordinance.

R/Q. "Park Zoning District" shall include the PK-1 or PK-2 Zoning District.

S/R. "Reconstruction" shall mean the rebuilding or restoration of any nonconforming adult use which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God if the damage or destruction exceeds two-thirds (2/3) of the value of the structure or the facilities affected.

Adult Entertainment Business Ordinance

- T/S. "Residential Zoning District" shall include the D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-6, D-6II, D-7, D-8, D-9, D-10, D-11, D-12 and D-P Zoning Districts.
- U/T. "Resumption" shall mean the reuse or reoccupation of a nonconforming adult use which has been discontinued for a period of six or more consecutive months.
- V/U. "School Zoning District" shall include the SU-2 Zoning District.
- W/V. "Services Involving Specified Sexual Activities or Display of Specified Anatomical Areas", as used in subsection J, shall mean and include any combination of two or more of the following activities:
- (1) the sale or display of book, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representation which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
  - (2) the presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
  - (3) the operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines,

Adult Entertainment Business Ordinance

projectors or other image producing devices to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;

- (4) live performances by topless and or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;
- (5) the operation of a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, as these terms are defined in Section 17-725 of the Code of the City of Indianapolis, and any amendments thereto.

X/W. "Specified Anatomical Areas" shall mean and include any of the following:

- (a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Y/X. "Specified Sexual Activities" shall mean and include any of the following:

- (a)/ human genitals in a state of sexual stimulation or arousal;
- (b)/ acts of human masturbation, sexual intercourse or sodomy;

Adult Entertainment Business Ordinance

- c. fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- d. flagellation or torture in the contest of a sexual relationship;
- e. masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- f. erotic touching, fondling or other such contact with an animal by a human being; or
- g. human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in "a" through "f" above.

Z/Y. "Structural Alteration" shall mean any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

SECTION 5. Prohibitions

The establishment, enlargement, reconstruction, resumption or structural alteration of any adult entertainment business shall be prohibited if such business is within 500 feet of two other such businesses or within 500 feet of any existing church zoning district, school zoning district, park zoning district, ~~agricultural/zoning/district~~, historic preservation zoning district or residential zoning district within Marion County, Indiana.

SECTION 2. If any provisions or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the unconstitutional or invalid provision, clause of application, and to this the provisions of this ordinance are declared to be severable.

CITY-COUNTY COUNCIL OF INDIANAPOLIS  
AND OF MARION COUNTY, INDIANA

\_\_\_\_\_  
President (or Presiding Officer)

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk

ADOPTED BY CITY-COUNTY  
COUNCIL, AUGUST 8, 1990